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22 BY adding to23 Article - Health - General

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2001 Regular Session 1lr0185 CF 1lr0069

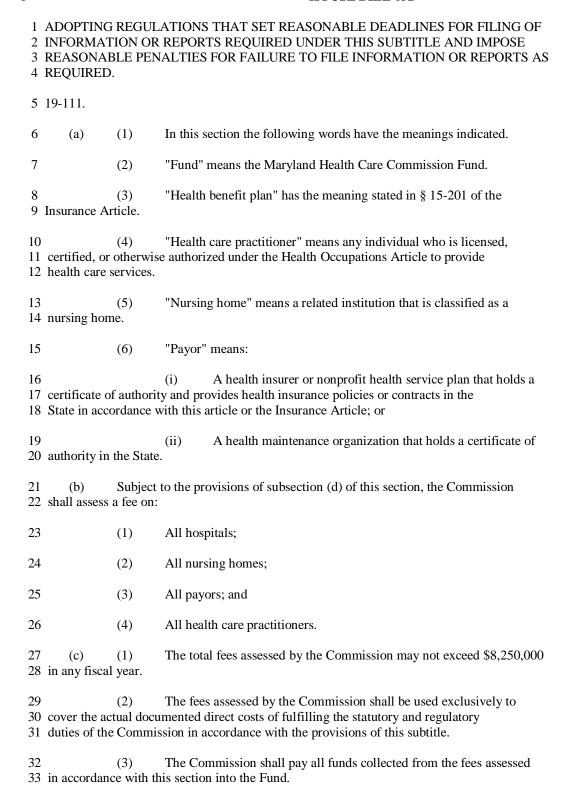
By: Ch	By: Chairman, Environmental Matters Committee (Departmental - Health				
	and Mental Hygiene)				
	aced and read first time: February 7, 2001				
Assign	ed to: Environmental Matters				
Comm	ittee Report: Favorable				
	action: Adopted				
Read so	econd time: March 17, 2001				
	CHAPTER				
1 A	N ACT concerning				
2	Department of Health and Mental Hygiene - Maryland Health Care				
3	Commission - Modifications and Clarifications				
4 FC 5 6 7 8 9 10 11 12 13 14	OR the purpose of authorizing the Maryland Health Care Commission to adopt regulations to establish certain deadlines for filing information and to impose certain penalties in certain circumstances; making certain modifications to the methodology for calculating user fees assessed payors; transferring certain health planning functions to the Secretary of Health and Mental Hygiene; repealing or transferring to the Secretary of Health and Mental Hygiene certain provisions relating to establishment and operation of local health planning agencies; altering certain definitions; clarifying that the Commission may provide certain information to the Department of Health and Mental Hygiene and local health departments; and generally relating to the Maryland Health Care Commission.				
15 B 16 17 18 19 20 21	Y repealing and reenacting, with amendments, Article - Health - General Section 1-101, 2-105, 19-109(a), 19-111, 19-114, 19-116(b), 19-121,				

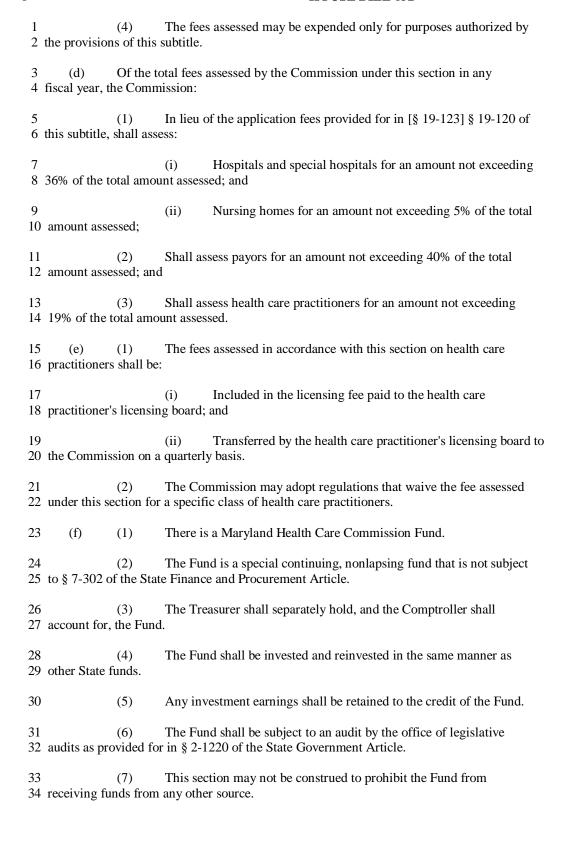
Section 2-401 to be under the new subtitle "Subtitle 4. Local Health Planning

•			HOUSE BILL 052					
1 2 3	Annotate		es" of Maryland ent Volume)					
4 5 6 7 8	Section 19-118 through 19-120, inclusive Annotated Code of Maryland							
9 10 11 12 13 14 15	Section 19-121 through 19-125.2 and 19-126 through 19-138, respectively to be Section 19-118 through 19-137, respectively Annotated Code of Maryland (2000 Replacement Volume)							
16 17			E IT ENACTED BY THE GENERAL ASSEMBLY OF the Laws of Maryland read as follows:					
18			Article - Health - General					
19	1-101.							
20	(a) l	n this a	rticle the following words have the meanings indicated.					
21 22	(b) otherwise, Ba		" means a county of this State and, unless expressly provided City.					
23	(c) '	'Depart	ment" means the Department of Health and Mental Hygiene.					
24 25			officer" means, unless expressly provided otherwise, the Baltimore of Health or the health officer of a county.					
26 27	(e) 'and not by wa		es" or "including" means includes or including by way of illustration nitation.					
	OF A JURISI	DICTIC	L HEALTH PLANNING AGENCY" MEANS THE HEALTH DEPARTMENT ON OR A BODY DESIGNATED BY THE LOCAL HEALTH DEPARTMENT LTH PLANNING FUNCTIONS.					
31	[(f)] (	(G)	"Medical examiner" means:					
32	(	(1)	The Chief Medical Examiner;					
33	(	(2)	The Deputy Chief Medical Examiner;					

1		(3)	Any assistant medical examiner; or
2		(4)	Any deputy medical examiner.
			"Person" means an individual, receiver, trustee, guardian, personal ary, or representative of any kind and any partnership, firm, on, or other entity.
6 7	[(h)] Maryland M	(I) edical Pra	"Physician" means an individual who is authorized under the actice Act to practice medicine in this State.
8	[(i)]	(J)	"Secretary" means the Secretary of Health and Mental Hygiene.
9	[(j)]	(K)	"State" means:
10		(1)	A state, possession, or territory of the United States;
11		(2)	The District of Columbia; or
12		(3)	The Commonwealth of Puerto Rico.
13	2-105.		
	` '	guide th	retary shall establish general policy for, and adopt standards to e development of, the physical and mental hygiene services of livisions.
	` '	all superv	retary is responsible for the health interests of the people of this vise generally the administration of the health laws of this State
20 21	` '		CRETARY SHALL ADOPT AND REVISE AS NECESSARY A STATE EMENT PLAN THAT INCLUDES THE FOLLOWING:
22 23	HEALTH C	(1) ARE SYS	A DESCRIPTION OF THE COMPONENTS THAT SHOULD COMPRISE THE STEM;
24		(2)	THE GOALS AND POLICIES FOR MARYLAND'S HEALTH CARE SYSTEM
		S AND S	IDENTIFICATION OF UNMET NEEDS AND EXCESS SERVICES FOR ERVICES NOT REGULATED BY THE CERTIFICATE OF NEED
28 29			AN ASSESSMENT OF THE FINANCIAL RESOURCES REQUIRED AND THE HEALTH CARE SYSTEM.
30			SUBTITLE 4. LOCAL HEALTH PLANNING AGENCIES
31	2-401.		
32	(A)	A LOCA	AL HEALTH PLANNING AGENCY SHALL:

1 DEVELOP A LOCAL HEALTH PLAN BY ASSESSING LOCAL HEALTH (1) 2 NEEDS AND RESOURCES; AND (2)PROVIDE INPUT INTO THE DEVELOPMENT OF STATEWIDE CRITERIA 4 AND STANDARDS FOR CERTIFICATE OF NEED AND HEALTH PLANNING. THE DEPARTMENT MAY REQUIRE THAT IN DEVELOPING LOCAL HEALTH 6 PLANS, EACH LOCAL HEALTH PLANNING AGENCY: 7 USE DATA COMPATIBLE WITH STATE DATA AND DATA USED BY (1) 8 OTHER LOCAL HEALTH PLANNING AGENCIES: 9 (2) MEET APPLICABLE PLANNING SPECIFICATIONS: AND 10 WORK WITH OTHER LOCAL HEALTH PLANNING AGENCIES TO 11 ENSURE CONSISTENCY AMONG LOCAL HEALTH PLANS. 12 (C) SUBJECT TO THE ANNUAL STATE BUDGET, THE DEPARTMENT SHALL 13 PROVIDE FUNDING TO LOCAL HEALTH PLANNING AGENCIES FOR IMPLEMENTATION 14 OF THE FUNCTIONS UNDER THIS SECTION AND ANY OTHER FUNCTIONS REQUIRED 15 BY THE DEPARTMENT OR THE MARYLAND HEALTH CARE COMMISSION. 16 19-109. 17 (a) In addition to the powers set forth elsewhere in this subtitle, the 18 Commission may: 19 (1) Adopt rules and regulations to carry out the provisions of this 20 subtitle; 21 (2) Create committees from among its members; 22 Appoint advisory committees, which shall include consumers and 23 may include representatives of interested public or private organizations, to make 24 recommendations to the Commission on community-based services, long term care, 25 acute patient services, ambulatory surgical services, specialized health care services, 26 residential treatment centers for emotionally disturbed children and adolescents, 27 mental health and alcohol and drug abuse services, and any other topic or issue that 28 the Commission considers necessary; 29 Apply for and accept any funds, property, or services from any person 30 or government agency; 31 Make agreements with a grantor or payor of funds, property, or 32 services, including an agreement to make any study, plan, demonstration, or project; 33 Publish and give out any information that relates to the financial 34 aspects of health care and is considered desirable in the public interest; and 35 Subject to the limitations of this subtitle, exercise any other power (7)36 that is reasonably necessary to carry out the purposes of this subtitle, INCLUDING

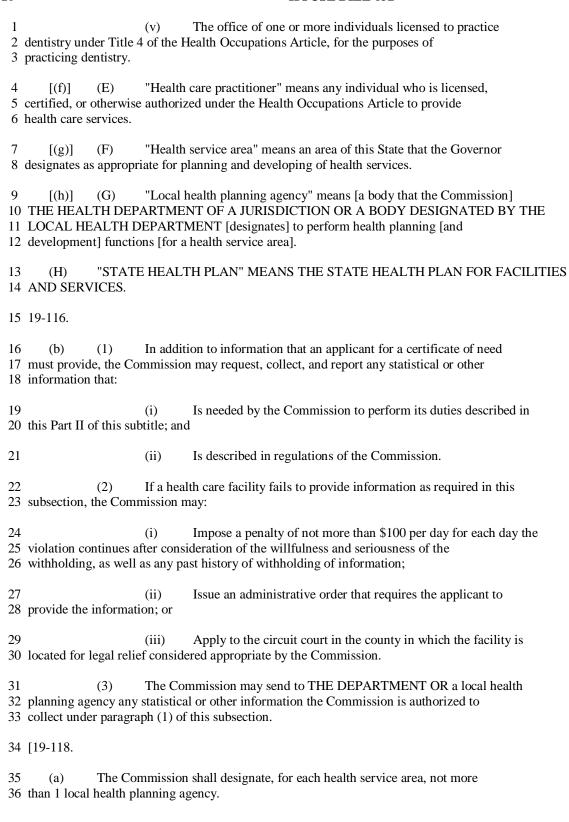


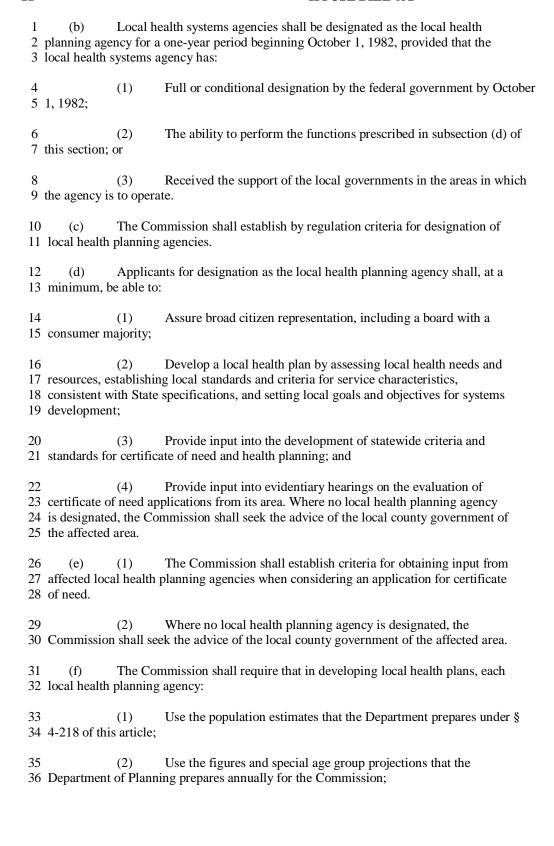


1 2	(8) and for the purpo		d shall be used only to provide funding for the Commission under this subtitle.
5 6	the Commission of a benefit plans of a	of the total pre ll payors in th	y 30 of each year, the Insurance Commissioner shall notify emiums [collected] EARNED in the State for health e State during the prior calendar year and each ED in the State for health benefit plans for the same
8	(h) The	Commission	shall:
11 12	among each payo EARNED in the	or based on th State for heal	Assess fees on payors in a manner that apportions the total sed on payors under subsection (d)(2) of this section e ratio of each payor's total premiums [collected] th benefit plans to the total [collected] EARNED ted] EARNED in the State; and
14 15	accordance with	(ii) item (i) of thi	On or before June 30 of each year, assess each payor a fee in s item;
16	(2)	(i)	Assess fees for each hospital equal to the sum of:
			1. The amount equal to one-half of the total fees to be bsection (d)(1)(i) of this section times the ratio of otal admissions of all hospitals; and
			2. The amount equal to one-half of the total fees to be bsection (d)(1)(i) of this section times the ratio of gross pital to total gross operating revenues of all hospitals;
23		(ii)	Establish minimum and maximum assessments; and
24 25	accordance with	(iii) item (i) of thi	On or before June 30 of each year, assess each hospital a fee in sitem; and
26	(3)	(i)	Assess fees for each nursing home equal to the sum of:
			1. The amount equal to one-half of the total fees to be der subsection (d)(1)(ii) of this section times the ratio of the total admissions of all nursing homes; and
32			2. The amount equal to one-half of the total fees to be der subsection (d)(1)(ii) of this section times the ratio of h nursing home to total gross operating revenues of all
34		(ii)	Establish minimum and maximum assessments; and
35 36	fee in accordance	(iii) e with item (i)	On or before June 30 of each year, assess each nursing home a of this item.

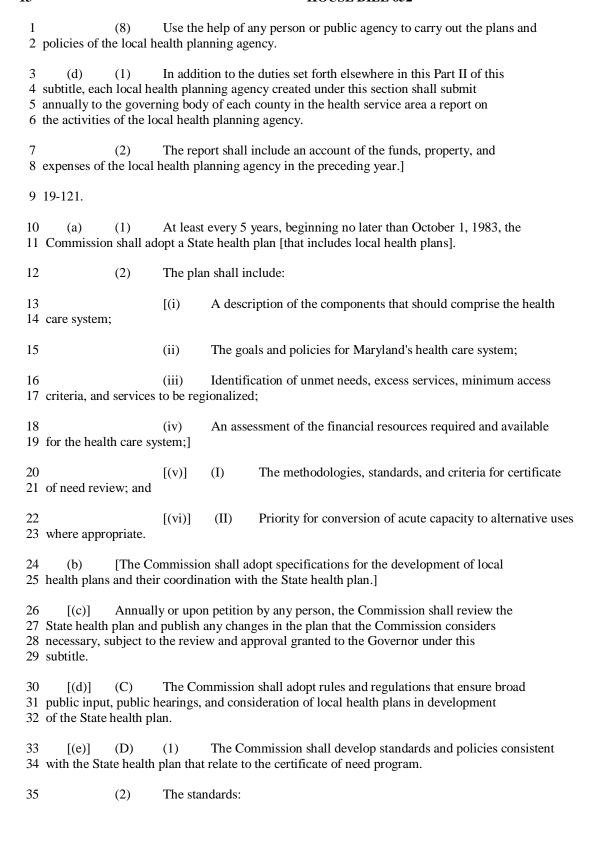
1 2	(i) (1) nursing home asses		efore September 1 of each year, each payor, hospital, and his section shall make payment to the Commission.
3	(2)	The Co	mmission shall make provisions for partial payments.
4 5			I within 30 days of the payment due date may be subject to mined and collected by the Commission.
6	19-114.		
7 8	(a) In thi indicated.	s Part II of	this subtitle the following words have the meanings
		of one or mo	latory surgical facility" means any center, service, office, ore health care practitioners or a group practice, as lth Occupations Article, that:
12		(i)	Has two or more operating rooms;
13 14	services to patients	(ii) s who do no	Operates primarily for the purpose of providing surgical or require overnight hospitalization; and
15 16	facility.	(iii)	Seeks reimbursement from payors as an ambulatory surgical
19		group practi requiremen	poses of this subtitle, the office of one or more health care ce with two operating rooms may be exempt from the its under this subtitle if the Commission finds, in its
21 22	safety, and quality	(i) of the surg	A second operating room is necessary to promote the efficiency, ical services offered; and
	of need requirement regulations adopte		The office meets the criteria for exemption from the certificate abulatory surgical facility in accordance with emmission.
26 27			eed" means a certification of public need issued by the I of this subtitle for a health care project.
28 29			eans the National Health Planning and Resources ablic Law 93-641), as amended.]
30	[(e)] (D)	(1)	"Health care facility" means:
31		(i)	A hospital, as defined in § 19-301(g) of this title;
32		(ii)	A limited service hospital, as defined in § 19-301(e) of this title;
33		(iii)	A related institution, as defined in 8 19-301 of this title:

1		(iv)	An amb	ulatory surgical facility;
			iduals, th	tient facility that is organized primarily to help in the arough an integrated program of medical and at professional supervision;
5		(vi)	A home	health agency, as defined in § 19-401 of this title;
6		(vii)	A hospi	ce, as defined in § 19-901 of this title; and
7 8	Part II of this subtitle	(viii) requires a		her health institution, service, or program for which this ate of need.
9	(2)	"Health	care faci	lity" does not include:
10 11	certified, by the First	(i) Church o		tal or related institution that is operated, or is listed and Scientist, Boston, Massachusetts;
14			20 of this	purpose of providing an exemption from a certificate of subtitle, a facility to provide comprehensive nuing care, as defined by Article 70B of the
18 19 20	subtitle, the facility is executed continuing of the lowest entrance for	care agree ee charge he contin	ements a d for an uing car	Except as provided under [§ 19-125.1] § 19-123 of this use of the provider's subscribers who have nd paid entrance fees that are at least equal to independent living unit or an assisted living e community, regardless of the level of care f admission;
22 23	community; and		2.	The facility is located on the campus of the continuing care
24 25	community does not	exceed:	3.	The number of comprehensive care nursing beds in the
26 27	community having le	ss than 3	A. 00 indep	24 percent of the number of independent living units in a endent living units; or
28 29	community having 30	00 or mor	B. e indepe	20 percent of the number of independent living units in a undent living units;
	programs, a kidney d United States Departs		atment f	for a facility to provide kidney transplant services or acility, as defined by rule or regulation of the d Human Services;
	disease treatment stat related institution; or			for kidney transplant services or programs, the kidney provided by or on behalf of a hospital or



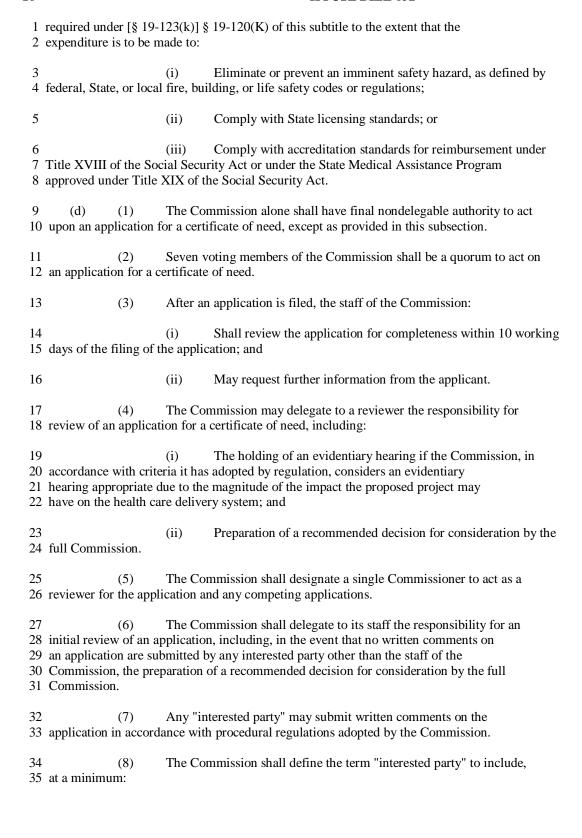


1	(3) Meet applicable planning specifications; and							
2 3	(4) Work with other local health planning agencies to ensure consistency among local health plans.]							
4	[19-119.							
7	Annually each local health planning agency shall receive the Department's program and budgetary priorities no later than July 1 and may submit to the Secretary comments on the proposed program and budgetary priorities within 60 days after receiving the proposals.]							
9	[19-120.							
	(a) (1) The governing body or bodies of 1 or more adjacent counties that constitute a health service area may establish a body to serve as the local health planning agency for the health service area, by:							
13 14	(i) Making a joint agreement as to the purpose, structure, and functions of the proposed body; and							
15 16	(ii) Each enacting an ordinance that designates the proposed body to be the local health planning agency for the county.							
17 18	(2) The body so established becomes the local health planning agency if the Commission designates the body as a health planning agency.							
21	(b) The governing board shall exercise all of the powers of the local health planning agency that, by law, agreement of the counties, or bylaws of the local health planning agency, are not conferred on or reserved to the counties or to another structure within the local health planning agency.							
23 24	(c) In addition to the powers set forth elsewhere in this Part II of this subtitle, each local health planning agency created under this section may:							
25	(1) Sue and be sued;							
26	(2) Make contracts;							
27 28	(3) Incur necessary obligations, which may not constitute the obligations of any county in the health service area;							
29	(4) Acquire, hold, use, improve, and otherwise deal with property;							
30 31	(5) Elect officers and appoint agents, define their duties, and set their compensation;							
32	(6) Adopt and carry out an employee benefit plan;							
33	(7) Adopt bylaws to conduct its affairs; and							



1 2	health care; and	(i)	Shall address the availability, accessibility, cost, and quality of
3	developments in healt	(ii) h plannin	Are to be reviewed and revised periodically to reflect new g, delivery, and technology.
		, the Con	ing standards regarding cost, efficiency, cost-effectiveness, amission shall take into account the relevant ervices Cost Review Commission.
		an. The S	y, the Secretary shall make recommendations to the Secretary may review and comment on State e development of the State health plan.
13	care industry or perso	or any asp ons involv	e agencies and departments, directly or indirectly involved beet of regulating, funding, or planning for the health yed in it, shall carry out their responsibilities in a te health plan and available fiscal resources.
17	for hospitals, the Condevelop, or duplicate	nmission standard	ng out their responsibilities under this Part II of this subtitle and the Secretary shall recognize, but may not apply, s or requirements related to quality which have been nal or State licensing or accrediting authorities.
21	Mental Hygiene healt	th plannir ealth plan	nmission shall transfer to the Department of Health and ng functions and necessary staff resources for licensed a that are not required to obtain a certificate of need or ate of need program.
23	19-122.		
26	the institution-specifi	c plan int	health plan developed or adopted after the incorporation of to the State health plan shall include the criteria in addition to the criteria in [§ 19-121] § 19-118 of this
28	19-123.		
29 30	(l) A certifi hospital as defined in		eed is not required to close any hospital or part of a of this title if:
33	(2) hospitals, at least 45 of proposing to close all partial closing with the	days befo or part o	For a hospital located in a county with fewer than three re the closing or partial closing of the hospital, a person of the hospital files notice of the proposed closing or ission; and
35		(ii)	The Commission finds that the closing:
36			1. Is in the public interest; and

1			2.	Is not inconsistent with:
2			A.	The State health plan; or
3 4	under [§ 19-122	2] § 19-11	B. 9 of this subtitl	An institution-specific plan developed by the Commission le.
5	19-124.			
8 9	organization sh organization or	directly or all have a health car	indirectly, or certificate of n e facility build	ance organization or a health care facility that is controlled by a health maintenance eed before the health maintenance is, develops, operates, purchases, or erating, or establishing:
			] § 19-120 of t	er health care project for which a certificate of need is his subtitle if that health care project is ers of that health maintenance organization.
14	19-126.			
15	A certifica	te of need	is required bef	Fore an ambulatory care facility:
	`	required t	inder [§ 19-123	services, makes an expenditure, if a certificate of 3(k)] § 19-120(K) of this subtitle for the care facility; or
19	19-127.			
22 23	change in the b 19-120 of this service or abol	oed capacit subtitle, or ish an exis	ty of a health c r for a health ca sting health car	s an application for a certificate of need for a are facility, as required under [§ 19-123] § are project that would create a new health care re service, the Commission shall give notice of d Register and give the following notice to:
25 26	planned;	l) Eac	ch member of	the General Assembly in whose district the action is
27 28	planned;	2) Eac	ch member of	the governing body for the county where the action is
29 30	whose county			ative, mayor, or chief executive officer, if any, in aed; and
31 32	any other perso			provider, third party payor, local planning agency, or as has an interest in the application.
	proposed expe	nditure is t	to be made is n	nission finds that the facility or service for which the not needed or is not consistent with the State ove an application for a certificate of need



1		(i)	The staff of the Commission;
2 3	[and]	(ii)	Any applicant who has submitted a competing application;
4 5	be adversely affected	(iii) by the de	Any other person who can demonstrate that the person would cision of the Commission on the application; AND
6 7	REGION IN WHICH	(IV) THE PR	A LOCAL HEALTH PLANNING AGENCY FOR A JURISDICTION OR OPOSED FACILITY OR SERVICE WILL BE LOCATED.
10		ny other i	ewer shall review the application, any written comments on naterials permitted by this section or by the I present a recommended decision on the application to
14	opportunity to present adopted by the Comm	nission, b	An applicant and any interested party may request the ument to the reviewer, in accordance with regulations efore the reviewer prepares a recommended decision on on by the full Commission.
16 17		(ii) uest to pr	The reviewer may grant, deny, or impose limitations on an esent oral argument to the reviewer.
20 21	paragraph (7) of this decision and make or	subsectio al argum	erested party who has submitted written comments under n may submit written exceptions to the proposed ent to the Commission, in accordance with regulations efore the Commission takes final action on the
25	decision is complete, on the basis of the rec	vote to a	nmission shall, after determining that the recommended pprove, approve with conditions, or deny the application led decision, the record before the staff or the reviewer, if any, before the Commission.
27 28	(13) present and voting.	The deci	sion of the Commission shall be by a majority of the quorum
29	19-134.		
			ons of [§ 19-135] § 19-134 of this subtitle are fully te, the Commission may limit the data collection under
33	19-135.		
36	[§ 19-134] § 19-133 operation of one or m	of this sul ore medi	to more efficiently establish a medical care data base under btitle, the Commission shall establish standards for the cal care electronic claims clearinghouses in Maryland thouses meeting those standards.

- 1 (b) The Commission may collect the medical care claims information 2 submitted to any licensed claims clearinghouse for use in the data base established
- 3 under [§ 19-134] § 19-133 of this subtitle.
- 4 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 19-121
- 5 through 19-125.2 and 19-126 through 19-138, respectively, of Article Health -
- 6 General of the Annotated Code of Maryland be renumbered to be Section(s) 19-118
- 7 through 19-137, respectively.
- 8 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
- 9 July 1, 2001.